



3727  
#13/dpr  
6-28-04  
Ret re  
w/o Aband.

May 28, 2004

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JUN 14 2004

United States Patent and Trademark Office  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

TECHNOLOGY CENTER R3700

Attn: Marena W. Brevard (Examiner)

This is a request for withdrawal of Notice of Abandonment on utility application number 09/922/529. A timely response was mailed on September 16, 2003, and was received on September 18, 2003 signed by J Steckel at 09:38 a.m. Enclosed you will find copies of correspondence from your office and from the United States Postal Service verifying this action. I would greatly appreciate a timely response from you pertaining to this matter. Also enclosed is another copy of the specification letter and drawings of said matter.

Regards,

*Cody Lambert*  
Cody Lambert



Track/Confirm - Intranet Item Inquiry

The item you queried is summarized below. If you would like to request a delivery record check the box in the "Select" column to the right of the item (if available). Learn more about [Restore](#).

Detail	Item	Origin	Destination	Firm	Recipient	Event/Image Info	Date	Time	Select	Restore
Archived	ER150654105US		22313		J STECKEL	DELIVERED	09/18/2003	09:38	<input checked="" type="checkbox"/>	Pending

Request Delivery Record for Selected Items

Enter Request Type and Item Number:

Quick Search ☒ Extensive Search ☐

[Explanation of Quick and Extensive Searches](#)

Item Number:

Submit

[Inquire on multiple items.](#)

[Go to the Product Tracking System Home Page.](#)



Date: 04/13/2004

CODY LAMBERT  
1451 NE LINCOLN ST  
ROSEBURG, OR 97470-2199



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TECHNOLOGY CENTER R3700

Dear CODY LAMBERT:

The following is in response to your 04/13/2004 request for delivery information on your Express Mail item number ER150654105US. The delivery record shows that this item was delivered on 09/18/2003 at 09:38 AM in ALEXANDRIA, VA 22313 to J STECKEL. The scanned image of the recipient information is provided below.

Signature of Recipient:

*James Steckel*

*James Steckel*

Address of Recipient:

*2011 S Lime Pl Alexandria VA 22302*

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,529	12/11/2001	Cody L. Lambert		9028

7590 04/06/2004

Cody Lambert  
1451 N.E. Lincoln St.  
Roseburg, OR 97470

EXAMINER

BREVARD, MAERENA W

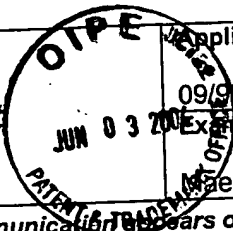
ART UNIT PAPER NUMBER

3727

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment



Application No.

09/922,529

Examiner

Maerena W. Brevard

Applicant(s)

LAMBERT, CODY L.

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 August 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

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GREGORY WIDOMICH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

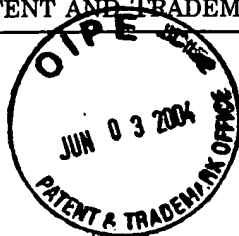
Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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MAY 12 2004



Paper No. 12

In re Application of  
Cody Lambert  
Application No. 09/922,529  
Filed: December 11, 2001  
For: Telescopic Universal  
Bed Rack

DECISION ON PETITION

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TECHNOLOGY CENTER n3700

This is a decision on the petition filed on April 26, 2004 by which petitioner requests withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated August 20, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Petitioner alleges that a proper reply to the Office letter in question was timely filed on September 18, 2003 by United States Postal Service "Express Mail." Although the petition indicates that "another copy of the specification letter and drawings of said matter" are enclosed with the petition, no such papers have been received. The only attachments to the petition letter are a copy of the form PTO-90C and attached Notice of Abandonment that were mailed to petitioner on April 6, 2004, a copy of a page from the Internet concerning a search for item, and a copy of a delivery record apparently resulting from that search.

Petitioner's attention is invited to the following Federal regulation governing the filing of correspondence with the Office by "Express Mail", which reads in pertinent part:

37 CFR 1.10. Filing of correspondence by "Express Mail".

(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

...

...

...

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in", a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other

official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

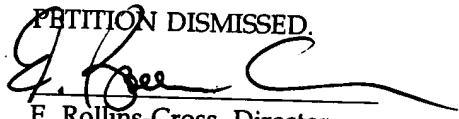
(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question.

Without a copy of the item(s) that were alleged to have been mailed and received, the petition cannot be reviewed for compliance with the regulations in order to determine if the petition is grantable. Petitioner should note that there is a requirement that the Office be able to associate the receipt provided by petitioner with the response to the August 20, 2003 letter in this application that petitioner states was filed. This requirement is the reason why the "Express Mail" label number is required to be placed on the correspondence.

Petitioner may file a renewed petition, without fee. The renewed petition must include copies of the correspondence that petitioner alleges to have been filed in response to the Office letter dated August 20, 2003, together with any evidence that will establish that the "Express Mail" item number as set forth on the material that petitioner submitted with the current petition refers to that correspondence. The renewed petition must be filed within two months of this Decision.

The application is being retained in Technology Center 3700 pending the filing of a renewed petition, or other action by petitioner.

PETITION DISMISSED.

  
E. Rollins-Cross, Director  
Technology Center 3700

Cody Lambert  
1451 N.E. Lincoln St.  
Roseburg, OR 97470



## Track & Confirm

### Shipment Details

You entered 0303 0830 0000 5134 5683

Your item was delivered at 6:25 am on April 26, 2004 in ALEXANDRIA, VA 22313.

Here is what happened earlier:

- ARRIVAL AT UNIT, April 26, 2004, 6:24 am, ALEXANDRIA, VA 22313
- ACCEPTANCE, April 23, 2004, 2:19 pm, ROSEBURG, OR 97470

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ROSEBURG, OR 97470-4965

04/23/04 02:17PM

Store USPS	Trans 67
Wkstn sys5005	Cashier KSJQ0D
Cashier's Name	ROSS
Stock Unit Id	WINROSS
PO Phone Number	800-275-8777
USPS #	4067870697

1. Priority Mail	4.30
Destination:	22313
Weight:	5.10oz
Postage Type:	PVI
Total Cost:	4.30
Base Rate:	3.85

SERVICES

Delivery Conf (retail)	0.45
03030830000051345683	

Subtotal	4.30
Total	4.30

Cash	20.00
Change Due	
Cash	15.70

Number of Items Sold: 1

Thank You  
Please come again!

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U.S. Postal Service™ Delivery Confirmation™ Receipt

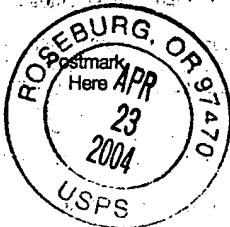
Postage and Delivery Confirmation fees must be paid before mailing.

Article Sent To: (to be completed by mailer)

US Patent Office

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Alexandria, VA 22313



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